Remarks

Applicants have carefully studied the Official action mailed 10 June 2009. To better point out and claim their invention, applicants have amended claims 1-4, 6 and 11. Ample antecedent basis exists in applicants' specification for the amendment to the claims. Following the amendments, claims 1-11 remain in this application.

35 U.S.C. § 112 Rejection of Claims 1-11

Claims 1-11 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the examiner contends that the phrases "for example 24 Hz and "e.g., 50 Hz" recited in claims 1 and 11, and incorporated by reference in claims 2-10, renders these claims indefinite because it is not clear whether or not these phrases serve to limit the invention. Further, with respect to claim 3, the examiner contends that the phrase "e.g., an HDD recorder" renders the claim indefinite because it is not clear whether the phrase limits the claim.

Applicants have amended claims 1 and 11 to delete the phrases "for example 24 Hz" and "e.g., 50 Hz." Further, applicants have amended claim 3 to delete the phrase "e.g., an HDD recorder." As now amended, applicants' claims comply with 35 U.S.C. § 112. Accordingly, applicants request withdrawal of the 35 U.S.C. § 112 rejection of the claims.

35 U.S.C. § 103(a) Rejection of claims 1-2 and 7-8

Claims 1-2 and 7-8 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,181,382 in the name of Cong Toai Kieu et al. (hereinafter the "Kieu et al." patent), in view of U.S. Patent Application Publication US2005/0084237, in the name of Charles R. Kellner et al. (hereinafter, the "Kellner et al." application.). In rejecting applicants' claims, the examiner contends that the Kieu et al. patent teaches a method for controlling frame insertion and teaches all of the steps of applicants' claim 1 except keeping the maximum picture count delay smaller than average to gain perceived lip-

sync. To overcome the deficiency of Kieu et al., the examiner relies on the Kellner et al application which allegedly teaches the feature of keeping the maximum picture content delay smaller than the average in case the audio information assigned to a picture sequence is detected.

Applicants respectfully traverse the rejection of claims 1and 2 and claims 7 and 8 that depend therefrom, respectively. With regard to the Kieu et al. patent, applicants note that this reference deals only with video and does not concern itself whatsoever with regard to audio. In other words, Kieu et al. carry out picture insertion without considering the current audio content. Thus Kieu et al. does not teach nor would it suggest the need to control picture insertion to gain perceived lip-synch, (e.g., synchronization between audio and video content). Thus, by itself the Kieu et al. patent would not suggest applicants' feature of carrying out picture insertion to keep the maximum picture content delay vs. the average picture distance (and thereby the audio content) smaller than average, i.e., when no significant motion and/or speech exists.

In this regard, applicants question why one skilled in the art would make the combination of Kieu et al. and Kellner et al proposed by the examiner. In particular, applicants question the propriety of the combination, especially in view of the complete absence of any suggestion in Kieu et al. of the need to control frame insertion to keep the maximum picture content delay lower than average to gain perceived lip synch. Given the complete absence of any such teaching in Kieu et al. regarding the need to gain synchronism between the audio and video, the examiner's proposed combination can only be the result of impermissible hindsight to applicants' own teaching. For this reason alone, applicants' claims 1 and 2, and claims 7-8 that depend therefrom, respectively, distinguish over the art of record.

Assuming *arguendo* that motivation exists in the Kieu et al. patent for controlling frame or field insertion to gain perceived lip-synch, a skilled artisan would not look to the Kellner et al. application for such a teaching. The Kellner et al. application teaches dropping of frames to recover from a delay between video and audio, as described at paragraph [57] in Column 5 of the published application.

Contrary to the teachings of Kellner, applicants' claims 1 and 2 incorporate the feature controlling frame insertion such that the output video picture frequency remains

greater and constant on average, and the current audio content controls video picture insertion to achieve perceived lip sync.

The teaching in Kellner et al. of dropping frames is completely antithetical to applicants' claim feature of controlling frame insertion. Thus, a skilled artisan would never combine Kieu et al., which teaches frame insertion, with Kellner et al. which teaches frame dropping. On this basis, the examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), thus warranting withdrawal of this rejection as to claims 1 and 2 and claims 7 and 8, respectively, that depend therefrom.

35 U.S.C. § 103(a) Rejection of Claims 3-4 and 6

Claims 3-4 and 6 stand rejected under 35 U.S.C. § 103(a) as obvious over Kieu et al., in view of "Kellner et al.", further in view of U.S. Patent 6,240.245 to Naoki Kato et al.(hereinafter, the Kato et al. patent) The examiner contends that the combination of Kieu et al. and Kellner et al. teach all of the features of claims 3, 4 and 6, except for an optical disc recorder which is taught by Kato et al.

Applicants respectfully traverse the rejection of claims 3-4 and 6. As discussed above with respect to the 35 U.S.C. § 103(a) rejection of claims 1 and 2, the combination of Kieu et al and Kellner et al. does not render obvious these claims. The addition of the Kato et al. patent adds nothing the combination of Kieu et al. and Kellner et al, and would not overcome the deficiencies of this combination regarding claims 1 and 2 and the claims that depend therefrom. In particular, Kato et al. says nothing regarding the desirability of controlling field or frame insertion to gain perceived lip synch as recited in applicants' claims 1 and 2, and incorporated by reference in claims 3-4 and 6. Accordingly, claims 3-4 and 6 patentably distinguish over the art of record and applicants request withdrawal of the rejection of these claims.

35 U.S.C. § 103(a) Rejection of Claim 5

Claims 5 stands rejected under 35 U.S.C. § 103(a) as obvious over Kieu et al., in view of "Kellner et al.", further in view of U.S. Patent 5,708,719 in the name of Hal P.

Greenberger et al. (hereinafter the "Greenberger et al." patent. The examiner contends that the combination of Kieu et al. and Kellner et al. teach all of the features of claim 5 except for the step of whether the center channel of a multi-channel signal shows a bursty energy distribution which is taught by Greenberger et al.

Applicants respectfully traverse the rejection of claim 5. As discussed above with respect to the 35 U.S.C. § 103(a) rejection of claims 1 and 2, the combination of Kieu et al and Kellner et al. does not render obvious such claims. The addition of the Greenberger et al. adds nothing the combination of Kieu et al. and Kellner et al, and would not overcome the deficiencies of this combination. Indeed, Greenberger et al. says nothing regarding the desirability of controlling field or frame insertion to gain lip synch as recited in applicants' claims 1 and incorporated by reference in claim 5.

Moreover, the Greenberger et al. patent teaches the desirability of improving reproduced speech quality by directing the speech signal to the center channel through subtracting the center channel signal from the left and right channel signals. Thus, Greenberger et al. already know that speech currently exists. Applicants' claim 5 seeks to determine whether or not speech exists, an entirely different premise.

In summary, the combination of Kieu et al., Kellner et al. and Greenberg et al. would not teach all of the features of applicants' claim 5. Therefore, claim 5 patentably distinguishes over the art of record, and applicants request withdrawal of the 35 U.S.C. § 103(a) rejection of this claim.

35 U.S.C. § 103(a) Rejection of Claim 9

Claims 9 stands rejected under 35 U.S.C. § 103(a) as obvious over Kieu et al., in view of Kellner et al., further in view of U.S. Patent 5,563,660 in the name of Ikuo Tsukagoshi (hereinafter, the "Tsukagoshi" patent). The examiner contends that the combination of Kieu et al. and Kellner et al. teach all of the features of claims 9 except for the motion compensation of the inserted frames or fields which is taught by Tsukagoshi.

Applicants respectfully traverse the rejection of claim 9. As discussed above with respect to the 35 U.S.C. § 103(a) rejection of claims 1 and 2, the combination of Kieu et

al and Kellner et al. does not render obvious such claims. The addition of the Tsukagoshi patent adds nothing the combination of Kieu et al. and Kellner et al, and would not overcome the deficiencies of this combination discussed above. The Tsukagoshi patent says nothing regarding the desirability of controlling field or frame insertion to gain lip synch as recited in applicants' claim 1 and incorporated by reference in claim 9. Accordingly, claim 9 patentably distinguishes over the art of record and applicants request withdrawal of the rejection of this claim.

35 U.S.C. § 103(a) Rejection of Claims 10-11

Claims 10-11 stand rejected under 35 U.S.C. § 103(a) as obvious over Kieu et al., in view of Kellner et al., further in view of Kato et al. and US Patent 6,233,253 to Timothy S. Settle at al. The examiner contends that the combination of Kieu et al. and Kellner et al. and Kato et al. teach all of the features of claims 10 and 11 except conveying flags in a user data field, which the examiner contends is taught in Settle et al.

Applicants respectfully traverse the rejection of claims 10 and 11. As discussed above with respect to the 35 U.S.C. § 103(a) rejection of claims 1 and 2, the combination of Kieu et al and Kellner et al. does not render obvious such claims. The addition of the Kato et al. patent adds nothing the combination of Kieu et al. and Kellner et al, and would not overcome the deficiencies of this combination discussed above. Indeed, Kato et al. says nothing regarding the desirability of controlling field or frame insertion to gain lip synch as recited in applicants' claim 1 and incorporated by reference in claim 10. Like the Kato et al. patent, the Settle et al. patent says nothing regarding the desirability of controlling field or frame insertion to gain lip synch. Therefore, the combination of Kieu et al., Kellner et al. Kato et.al., and Settle et al. would not teach all of the features of applicants' claim 10. Accordingly, claim 10 patentably distinguishes over the art of record and applicants request withdrawal of the rejection of these claims.

Independent claim 11, like independent claims 1 and 2, recites the feature of controlling field or frame insertion to gain lip synch. Given that the combination of Kieu et al., Kellner et al. Kato et al. and Settle et al. does not teach this feature of claim 11, the

claim patentably distinguishes over the art of record. Applicants request withdrawal of the 35 U.S.C. § 103(a) rejection of claim 11.

Conclusion

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicant's attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge any fee or credit any overpayment to Deposit Account No. **07-0832.**

Respectfully submitted,
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